

# **Ex. B**



**CSMS# 13-000298 - Initiation Date for Liquidated Damages for ISF Non-Compliance**

*U.S. Customs and Border Protection sent this bulletin at 06/07/2013 09:05 AM EDT*

You are subscribed to Ocean Manifest for U.S. Customs and Border Protection. This information has recently been updated, and is now available.

**CSMS# 13-000298 - Initiation Date for Liquidated Damages for ISF Non-Compliance**

06/07/2013 10:04 AM EDT

**Ocean Manifest**

In order to achieve the most compliance with the least disruption to the trade and to domestic port operations, CBP has been applying a measured and commonsense approach to Importer Security Filing (ISF or 10+2) enforcement. On July 9, 2013 CBP will begin full enforcement of ISF, and will start issuing liquidated damages against ISF importers and carriers for ISF non-compliance.

Please visit [http://www.cbp.gov/xp/cgov/trade/cargo\\_security/carriers/security\\_filing](http://www.cbp.gov/xp/cgov/trade/cargo_security/carriers/security_filing) for more information and send questions to [security\\_filing\\_general@cbp.dhs.gov](mailto:security_filing_general@cbp.dhs.gov).

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## CBP Enters Next Phase of Importer Security Filing

**Release Date:** Fri, 06/07/2013 - 12:00

**WASHINGTON, D.C.**—U.S. Customs and Border Protection is making preparations to enter into the liquidated damages phase of the Importer Security Filing (ISF) enforcement process, which takes effect next month.

"The Importer Security Filing and Additional Carrier Requirements are part of CBP's layered enforcement strategy," said Acting Commissioner Thomas S. Winkowski. "CBP works collaboratively and collectively with the other agencies and the trade to maintain the highest level of security and safety for our nation while facilitating legitimate trade."

CBP will begin the liquidated damages phase of ISF enforcement on July 9, 2013, adding to the use of manifest holds and non-intrusive inspections to enforce ISF compliance. In order to achieve maximum compliance with the least amount of disruption to the trade and to domestic port operations, CBP has been applying a measured and commonsense approach to enforcement.

CBP may issue liquidated damages of \$5,000 per violation for the submission of an inaccurate, incomplete or untimely filing. Liquidated damages in simplified terms refer to a penalty secured by a bond. If goods for which an ISF has not been filed arrive in the U.S., CBP may withhold the release or transfer of the cargo. For carrier violations of the vessel stow plan requirement, CBP may refuse to grant a permit to unlade for the merchandise. Additionally, noncompliant cargo could be subject to further inspection on arrival.

The ISF and Additional Carrier Requirements were borne out of the Security and Accountability For Every (SAFE) Port Act of 2006 which required the filing of additional advance data elements to help CBP to make earlier and more informed targeting decisions and improve CBP's ability to target high-risk U.S.-bound containerized vessel cargo prior to its arrival in the U.S.

The 10+2 rule was published in the Federal Register on November 25, 2008 and has been in effect since January 26, 2009.

*U.S. Customs and Border Protection is the unified border agency within the Department of Homeland Security charged with the management, control and protection of our nation's borders at and between the official ports of entry. CBP is charged with keeping terrorists and terrorist weapons out of the country while enforcing hundreds of U.S. laws.*

**Tags:** [Trade](#), [Port Security](#), [Archive Media Releases](#)

**Last Modified:** February 3, 2021

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## CBP TO BEGIN ISSUING LIQUIDATED DAMAGE CLAIMS FOR ISF NON-COMPLIANCE COMMENCING JULY 9, 2013

July 1, 2013 // admin

Please take note CBP has issued the following administrative message on June 7, 2013 with respect to ISF enforcement:

In order to achieve the most compliance with the least disruption to the trade and to domestic port operations, CBP has been applying a measured and commonsense approach to Importer Security Filing (ISF or 10+2) enforcement. **On July 9, 2013 CBP will begin full enforcement of ISF**, and will start issuing liquidated damages against ISF importers and carriers for ISF non-compliance.

Please visit [CBP: Security Filing](#) for more information and send questions to [security\\_filing\\_general@cbp.dhs.gov](mailto:security_filing_general@cbp.dhs.gov).

As we have indicated in our previous communications and newsletters, CBP initiated the Importer Security Filing (ISF) or "10+2" rule on January 26, 2009 for the purposes of enhancing U.S. Port security. Under ISF, importers are required to electronically submit (10) data elements to CBP before cargo is laden on board a vessel destined to the United States. Also, ocean common carriers are required to submit two additional data elements to those previously required. The ISF data reporting requirements are secured under CF301-1 (single & continuous), 2, 3 or 4 bonds as well as stand along ISF bonds (referred to as Appendix D). CBP may assess a claim for liquidated damages for ISF non-compliance violations as follows: \$5,000 per late ISF, \$5,000 per inaccurate ISF, and \$5,000 for the first inaccurate ISF update.

Although this requirement has been in effect since 2009, CBP has been working closely with the trade to implement, evaluate and improve the timeliness and the accuracy of the transmission of the required data elements prior to initiating the issuance of liquidated damage claims for breach or non compliance with the ISF regulations. **Effectively, CBP is now ending the liquidated damage grace period afforded to the trade to implement the proper compliance procedures.** With full enforcement of the ISF regulations quickly approaching, we encourage brokers to pass this information to clients who are importers or carriers (including the links provided by CBP in the above referenced message) to ensure they are meeting all necessary ISF reporting requirements no later than July 9, 2013 to avoid any potential liquidated damage claims for non compliance violations which are covered under their U.S. Customs bond.

### ■ Claims

- < What is a Foreign Trade Zone and What Does the Bond Cover?
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## Shap Flash

### Customs to Begin Full Enforcement of ISF July 9, 2013

June 7, 2013

In: [Regulatory/Compliance](#)

U.S. Customs and Border Protection (CBP) has announced that they will begin full enforcement of the Importer Security Filing (ISF or 10+2) on [July 9, 2013](#). To date, CBP has been applying a measured and commonsense approach to ISF enforcement. The existing liquidated damages provisions will be employed. While there may be multiple errors on an ISF transmission, in accordance with the guidelines for the assessment and cancellation of claims for liquidated damages for failure to comply with ISF requirements, CBP may assess a claim for liquidated damages as follows: \$5,000 per late ISF, \$5,000 per inaccurate ISF, and \$5,000 for the first inaccurate ISF update. Customs has stressed that every liquidated damages enforcement action instituted at the port level will be reviewed by CBP headquarters prior to issuance.

If you have any questions, please feel free to contact us at [compliance@shapiro.com](mailto:compliance@shapiro.com).

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# Local Information

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## Local News

June 17, 2013



Print



### Start date of Liquidated Damage Charges for ISF Non-Compliance announced

Please note US Customs and Border Patrol (CBP) has announced effective July 9, 2013 they will begin full enforcement of Importer Security Filing (ISF or 10+2). The full enforcement will include CBP issuing liquidated damages for ISF(10+2) non-compliance against importers and carriers.

Please visit the [CBP website](#) for more information. The CBP announcement can be found at the following [link](#).

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## Transportation News

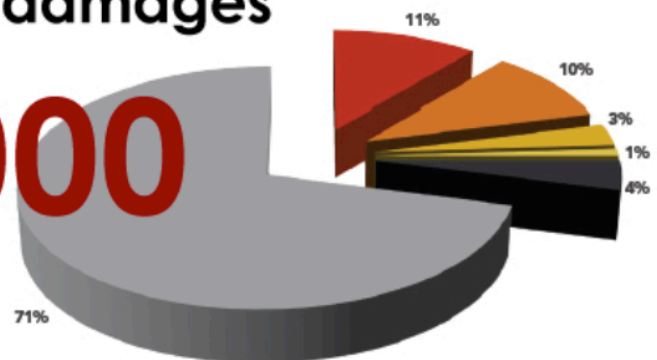
# Deadline: July 9, 2013 – CBP Begins Liquidated Damages Phase of ISF Enforcement – Are You Ready?



## liquidated damages

# \$5,000

per violation



CBP liquidated damages of \$5,000 per violation for the submission of an inaccurate, incomplete or untimely filing.

July 3, 2013 · By 24/7 Staff · [in](#) [t](#) [f](#)

The US Customs and Border Protection (CBP) announced that it will begin the liquidated damages phase of the Importer Security Filing (ISF) on July 9, 2013.

These ISF enforcement phases are designed to help CBP make more informed targeting decisions regarding high-risk US-bound cargo.

Starting on July 9, 2013, liquidated damages of \$5,000 per violation will be issued for inaccurate, incomplete, or untimely filings. CBP may also withhold the release or transfer of cargo for which an ISF has not been filed. Noncompliant cargo will also be subject to further inspections.

The ISF requires importers and carriers to electronically submit additional cargo information at least 24 hours before ocean freight is loaded onto a vessel bound for the US. It was designed to increase the amount of shipment information available to the CBP in order to better identify potential terrorist threats.

While many shippers have slacked off with ISF compliance, that will all change with the implementation of liquidated damages. According to [Albert Saphir, president of ABS Consulting](#), "responsible importers that spent a lot of time and effort (money) on creating a good and compliant ISF program will receive the benefit they deserve when those importers not compliant will finally need to 'get with the program' or face significant monetary penalties."

[Download the White Paper: Vital Facts about the Importer Security Filing \(ISF\) Requirements](#)

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[All Amber Road News](#)



**PORT OF SAN FRANCISCO  
INFORMATION NOTICE**

Distribution: All Brokers, Filers, Importers, CBP Officers, Entry Specialists, and Import Specialists  
Number: 782-13-09  
Issue Date: July 25, 2013  
Supersedes: Not Applicable  
Expires: When Superseded  
Contact Point: A1U Supervisor Wendell Roberts (510) 273-4336 x206

**Importer Security Filing (ISF) Enforcement Procedures:**

**PURPOSE:**

The purpose of this Public Bulletin is to notify the Area Port of San Francisco Seaport importing community of the commencement date for enhanced enforcement for non-compliance of the Importer Security Filing (ISF or 10+2) requirements.

**BACKGROUND:**

As previously posted on the CBP website on June 7, 2013, U.S. Customs and Border Protection (CBP) has completed preparations to begin the next phase of the Importer Security Filing (ISF) enforcement process. The ISF rules require importers and vessel-operating carriers to provide additional advance trade data on cargo shipments to CBP 24-hours prior to vessel lading, pursuant to Section 203 of the Security and Accountability for Every Port (SAFE Port Act) of 2006.

The Interim Final Ruling (IFR) was officially published in the Federal Register with an effective date of January 26, 2009. The IFR included a 1-year delayed enforcement (informed compliance) period which concluded on January 25, 2010. Due to instances of continued non-compliance with ISF requirements, the Oakland Seaport will now apply enhanced enforcement measures to improve ISF compliance.

**ACTION:**

On July 15, 2013, CBP in Oakland started making use of the newly activated cargo holds in the Automated Cargo Environment (ACE) system to address non-compliance with the ISF rule. CBP will hold all non-compliant ISF shipments at the terminal until the required ISF is filed. Once the ISF data is received and a security assessment is made, additional enforcement actions including Non-Intrusive Inspection (NII) and/or intrusive exams may be initiated. CBP may also assess liquidated damages of up to \$5,000 per violation as warranted. Costly and untimely delays in cargo processing can be avoided through compliance with the ISF rule.

Questions regarding this information notice should be directed to the Oakland Advanced Targeting Team 510-273-4336 x206.

A handwritten signature in blue ink, appearing to read "Donald Kusser".

Donald Kusser  
(A)Area Port Director  
San Francisco




[< Previous](#) [Next >](#)

## BEWARE – Liquidated Damages WILL be Imposed for 10+2 Violations

For those who thought CBP's "measured and commonsense" approach for those that weren't fully complying with the Importer Security Filing (ISF or 10+2) rules would last forever, think again!

**Effective, July 9, 2013, CBP advised it would start the liquidated damages phase of the Importer Security Filing (ISF) enforcement process.** CBP will now make use of the newly activated cargo holds in the Automated Cargo Environment (ACE) system to address non-compliance with the ISF rule. **CBP may also withhold the release** or transfer of non-compliant ISF shipments at the terminal until the required ISF is filed. For carrier violations of the vessel stow plan requirement, CBP may refuse to grant a permit to unlade the merchandise. Once the ISF data is received and a security assessment is made, additional enforcement actions including a Non-Intrusive Inspection (NII) and/or intrusive exams may be initiated.

### Liquidated Damages

**CBP may also assess liquidated damages of up to \$5,000 per violation** for the submission of an inaccurate, incomplete or untimely filing. **CBP Dec. 09-26** discusses "Guidelines for the Assessment and Cancellation of Claims for Liquidated Damages for Failure to Comply with the Vessel Stow Plan, Container Status Message, and Importer Security Filing Requirements." First violations may be mitigated to \$1,000-\$2,000 – depending on the presence of aggravating or mitigating factors. Some mitigating factors for the failure to file a complete, accurate and timely ISF include **evidence of progress in the implementation of ISF during the "flexible enforcement period," small number of violations compared to number of shipments, Tier 2 and 3 C-TPAT status, remedial action....** CBP has advised that "no relief will be granted if CBP determines that law enforcement goals were compromised by the violation." Aggravating factors include multiple errors on your ISF! If you do receive a Liquidated Damages claim, it is important you consult with an expert to file a timely, persuasive Petition to CBP and address all relevant mitigating factors to assure you receive the maximum reduction possible.

### What's ISF Again?

The ISF rules require importers and vessel-operating carriers to provide additional advance trade data on cargo shipments to CBP 24 hours prior to vessel lading, pursuant to Section 203 of the Security and Accountability for Every Port (SAFE Port Act) of 2006.

### **Importers must report the following 10 data elements on each ISF:**

1. Manufacturer (or supplier) name and address
2. Seller (or owner) name and address
3. Buyer (or owner) name and address
4. Ship-to name and address
5. Container stuffing location
6. Consolidator (stuffer) name and address
7. Importer of record number/foreign trade zone applicant identification number
8. Consignee number(s)
9. Country of origin
10. Commodity Harmonized Tariff Schedule (HTS) number

### **From the carrier, 2 data elements are required:**

1. Vessel stow plan – required for arriving vessels with containers.
2. Container status messages – required for containers arriving via vessel.

Hence, 10+2!

For shipments consisting entirely of **freight remaining on board (FROB)** cargo or goods intended to be transported in-bond as an immediate entry or transportation and exportation entry, the following 5 data elements are required:

1. Booking party name and address
2. Ship-to name and address
3. Commodity Harmonized Tariff Schedule (HTS) number
4. Foreign Port of Unlading
5. Place of delivery

In order to avoid liquidated damages and untimely delays with your cargo, full ISF compliance is now required. Since we're talking compliance, do you have your **pre-compliance** plan established? If not... Let's talk!

If you have any questions on the listed requirements, need assistance with cargo detained as a result of this new enforcement phase, getting your C-TPAT application in ASAP (and getting to Tier 2 quickly!), or any other compliance or enforcement question, please feel free to contact Diaz Trade Law at [info@diaztradelaw.com](mailto:info@diaztradelaw.com) and we would be happy to assist you!

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## U.S. CUSTOMS & BORDER PROTECTION TRADE INFORMATION NOTICE

NUMBER: 13-17

ISSUE DATE: 07-22-13

SUBJECT: Enhanced Enforcement for Non-Compliance of the Importer Security Filing

DISTRIBUTION: Customs Brokers, Filers, Importers, Freight Forwarders, Interested Parties

The purpose of this Trade Information Notice is to notify the Area Port of Seattle importing community of the commencement date for enhanced enforcement for non-compliance of the Importer Security Filing (10+2 or ISF) requirements.

As previously reported and posted on the CBP.gov website on June 7, 2013, U.S. Customs & Border Protection (CBP) has completed preparations to begin the next phase of the Importer Security Filing (ISF) enforcement process. The ISF rules require importers and vessel-operating carriers to provide additional advance trade data on cargo shipments to CBP 24 hours prior to vessel lading, pursuant to Section 302 of the Security and Accountability for Every Port (SAFE Port Act) of 2006.

The Interim Final Ruling (IFR) was officially published in the Federal Register with an effective date of January 26, 2009. The IFR included a 1-year delayed enforcement (informed compliance) period which concluded on January 25, 2010. As of July 9, 2013, the Area Port of Seattle Seaport began enhanced enforcement measures to improve ISF compliance.

Effective immediately: CBP, in all seaports falling under the purview of the Area Port of Seattle, will place holds to address non-compliance with the ISF regulation for shipments departing a foreign port destined for the U.S. CBP will hold all non-compliant ISF cargo shipments at their respective terminal until the required ISF data is filed. Once the ISF data is transmitted and a security assessment is determined, additional enforcement actions including Non-Intrusive Inspection (NII) and/or intrusive examinations may be initiated. CBP may also assess liquidated damages of up to \$5000 per violation as warranted by 19 CFR Part 194. Complying with the ISF rule will prevent costly and untimely delays in cargo processing.

The chart below explains the updated codes:

Code	Name/Disposition	Action
2O	ISF Hold for no ISF on file	Informs the carrier that shipment has a manifest hold.
2P	ISF Hold for ISF Compliance Issue	Informs the carrier that shipment has a manifest hold.
4O	ISF Hold Removed for no ISF on file	Generated to remove the ISF Hold identified in 2O
4P	ISF Hold Removed for ISF Compliance Issue	Generated to remove the ISF Hold identified in 2P





The screenshot shows the UFL (U-Freight Limited) website. The header features the UFL logo and a navigation menu with links: About UFL, Our Network, Press Room, Service, E-Solution, Useful Links & Resources, and Contact Us. A large banner image displays a scenic view of a river and trees, with the text "Service without Boundaries" overlaid. Below the banner, there is a "Press Room" section with a date filter for "Jun 12, 2013" and a headline: "US CBP ENTERS NEXT PHASE OF IMPORTER SECURITY FILING". The article text discusses the U-Freight Group's (UFL) new enforcement strategy for ISF compliance, starting on July 9, 2013. It mentions that CBP will begin liquidated damages for ISF enforcement on July 9, 2013, adding to the use of manifest holds and non-intrusive inspections. The article also notes that CBP may issue liquidated damages of US\$5,000 per violation for the submission of an inaccurate, incomplete or untimely filing. The article is attributed to Acting Commissioner Thomas S. Winkowski. At the bottom of the page, there are three widgets: "Shipment Tracking" with input fields for Shipment No., Origin, and Destination; "News & Press Release" with a list of recent news items; and a "Newsletter Subscription" form with fields for Name, Company Name, and Email, and a "Submit" button.

**UFL**

Service without Boundaries

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**Press Room**

Jun 12, 2013

**US CBP ENTERS NEXT PHASE OF IMPORTER SECURITY FILING**

June 12 - The U-Freight Group (UFL) would like to alert our website visitors that U.S. Customs and Border Protection will begin full enforcement of the Importer Security Filing requirement on July 9. On that date, the agency will begin to issue liquidated damages for ISF violations, adding to the use of manifest holds and non-intrusive inspections to enforce ISF compliance.

CBP may issue liquidated damages of US\$5,000 per violation for the submission of an inaccurate, incomplete or untimely filing.

"The Importer Security Filing and Additional Carrier Requirements are part of CBP's layered enforcement strategy," said Acting Commissioner Thomas S. Winkowski. "CBP works collaboratively and collectively with the other agencies and the trade to maintain the highest level of security and safety for our nation while facilitating legitimate trade."

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The ISF and Additional Carrier Requirements were borne out of the Security and Accountability For Every (SAFE) Port Act of 2006 which required the filing of additional advance data elements to help CBP to make earlier and more informed targeting decisions and improve CBP's ability to target high-risk U.S.-bound containerized vessel cargo prior to its arrival in the U.S.

The 10+2 rule was published in the Federal Register on November 25, 2008 and has been in effect since January 26, 2009.

Please visit [http://www.cbp.gov/xp/cgov/trade/cargo\\_security/carriers/security\\_filing](http://www.cbp.gov/xp/cgov/trade/cargo_security/carriers/security_filing) for more information and send questions to [security\\_filing\\_general@cbp.dhs.gov](mailto:security_filing_general@cbp.dhs.gov) or contact your local U-Freight office for more information.

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Shipment No.

Origin  Destination

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